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1 number indicates?

2 A. No. This is probably referring --  
3 Equifax's number. Experian has -- this is reporting  
4 to those bureaus.

5 Q. So what specifically --

6 A. So it could go back to what you  
7 initially asked me of what was called the subscriber  
8 code number.

9 Q. So what information on this form was  
10 updated? Let me back that up.

11 This form is telling -- is OCWEN telling  
12 the credit reporting agencies that you need to update  
13 the following information, correct?

14 A. It just is providing, how I called it  
15 earlier, an escalation.

16 Q. So if there is information on this form,  
17 OCWEN is telling the credit reporting agency here is  
18 what you need to report?

19 A. Figuring the AUD will coincide in their  
20 brains more than an ACDV report.

21 Q. So what specifically was updated on this  
22 form?

23 A. Okay. As the document says in the notes  
24 what was updated, so what it's saying is showing paid  
25 as agreed has been reported. So it's a paid as

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1   agreed and current. And then this is for the months  
2   March, June, July, October, December 2013, per  
3   request. And then the response went back to the  
4   Consumer Financial Protection Bureau stating the  
5   same.

6           Q.     Is there any reason OCWEN didn't delete  
7   the extra account from Mr. Daugherty's account as  
8   opposed to updating the current account?

9           A.     I don't know what extra account you're  
10   talking about.

11          Q.     The account that Mr. Daugherty and the  
12   CFPB indicated that OCWEN was showing up on his  
13   credit report.

14          A.     We don't have control how the credit  
15   bureaus report in their system. We only reported one  
16   trade line to each bureau.

17          Q.     On the form and several of the other  
18   forms, just above the account history there is a box  
19   marked balloon payment due date. Do you see where  
20   that box is on the AUDF?

21          A.     On which one?

22          Q.     On the universal data form, just above  
23   the account history box on the right side there are  
24   two boxes. One says balloon payment due date. One  
25   says balloon payment amount. You see where I'm at?

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1           A.       Okay.

2           Q.       Why are those boxes empty?

3                   MR. MANNING: Object to the form.

4                   You can answer.

5                   THE WITNESS: I believe this is a fixed  
6 rate mortgage and not a balloon.

7 BY MR. NOLAN:

8           Q.       If it was a balloon, would OCWEN be  
9 required to record something in that box?

10          A.       But it's not a balloon, so we can speak  
11 about this account. So how it -- how it reports is  
12 based on the note. This is the information in  
13 regards to the actual mortgage, whether it was a  
14 fixed rate, adjustable rate, balloon, there is a  
15 maturity date.

16          Q.       So if I had a hypothetical where there  
17 was a balloon due, would it be inaccurate to leave  
18 that box blank?

19                   MR. MANNING: Objection to the form.  
20 Calls for a legal conclusion.

21                   You can answer.

22                   THE WITNESS: If there is a balloon  
23 amount, I don't know how -- how they would -- how  
24 it's completed.

25

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1 BY MR. NOLAN:

2 Q. Okay.

3 (Exhibit No. 23 was marked for  
4 identification.)

5 BY MR. NOLAN:

6 Q. This is Exhibit No. 23. Do you need a  
7 break? I saw you reaching for your drink.

8 A. I'm just taking a sip.

9 Q. If you want to take a break -- we've  
10 been going for a little while here.

11 MR. MANNING: I can take a break.

12 MR. NOLAN: Okay. Good.

13 (A recess was taken.)

14 BY MR. NOLAN:

15 Q. I think we left off and I just handed  
16 out Exhibit 23. So the response date -- this is  
17 another ACDV response from OCWEN dated August 8th,  
18 2014, correct?

19 A. A response date, yes.

20 Q. And the response code was account  
21 information accurate as of date, correct?

22 A. Yes.

23 Q. Okay.

24 MR. NOLAN: Can we mark this Exhibit 24?

25

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1 (Exhibit No. 24 was marked for  
2 identification.)

3 BY MR. NOLAN:

4 Q. This is another ACDV response dated  
5 September 19, 2014, correct?

6 A. Yes.

7 Q. And this states that -- down in the  
8 account information toward the bottom of the page, it  
9 states he has a current account, correct?

10 A. Yes.

11 Q. I have one more from earlier I wanted to  
12 double-back to.

13 (Exhibit No. 25 was marked for  
14 identification.)

15 MR. NOLAN: I didn't make copies of this  
16 one, Jason. It's Bates 576, dispute letter.

17 MR. MANNING: 576 and 577.

18 MR. NOLAN: Sorry. That's correct.

19 BY MR. NOLAN:

20 Q. Earlier we were discussing, I believe it  
21 was Exhibit 4, there was a response letter sent by  
22 OCWEN regarding a dispute in March of 2013. I wanted  
23 to introduce this. The date at the top of the page  
24 indicates March of 2013, correct?

25 A. Yes.

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1 Q. It appears to have been faxed at  
2 8:36 p.m. that evening?

3 A. Yes.

4 Q. And it indicates that he was informing  
5 OCWEN that his Equifax report indicated he was \$6,128  
6 behind and in foreclosure with OCWEN, correct?

7 A. Yes.

8 Q. And he asked that Equifax correct those  
9 records, correct?

10 A. Yeah. Based on the document. It speaks  
11 for itself.

12 Q. And then the second page he attached a  
13 printout indicating the incorrect reporting; is that  
14 correct, as well?

15 A. Yes. It's Equifax. All of this is  
16 dealing with Equifax. How come Equifax didn't do a  
17 research on their end based on the same disputes that  
18 they keep sending to OCWEN? It could have been --  
19 how come -- I mean, obviously it's an error they did  
20 on their end. How come they didn't conduct a  
21 research on their end?

22 Q. We talked with Equifax, as well.

23 A. Okay.

24 Q. That's all I've got today.

25 A. That's all you have?

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1 Q. If that wasn't enough, Mr. Manning may  
2 have some questions for you.

3 EXAMINATION

4 BY MR. MANNING:

5 Q. One of the documents that was produced  
6 in this was -- it's often referred to as monthly  
7 reporting data. It is in the production as OLS 602  
8 through 645.

9 MR. NOLAN: I've got that.

10 BY MR. MANNING:

11 Q. I'm going to hand you a copy.

12 MR. MANNING: Let's mark it as the next  
13 one, just for identification purposes.

14 (Exhibit No. 26 was marked for  
15 identification.)

16 BY MR. MANNING:

17 Q. So take a minute and look over what's  
18 been marked as Exhibit 26. And then just tell me  
19 when you can identify what these documents appear to  
20 be.

21 A. These are screen prints for OCWEN's  
22 system, Real Servicing, of the screen prints of what  
23 the credit reporting department at OCWEN uses.

24 Q. When you say screen prints of what the  
25 credit reporting that OCWEN uses, what does this

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1 information reflect?

2 A. This reflects the account history and  
3 how -- and how it is reported to the bureaus each  
4 month.

5 Q. During your testimony you've identified  
6 that there is a -- I can't remember your  
7 terminology -- something like 30 days in arrears,  
8 like the reporting happens for the previous 30 days.  
9 Am I saying that right?

10 A. Right. So if they're reporting to the  
11 credit bureau the 30th, say of, in this case,  
12 November 30th, then it's being reported as -- to  
13 reflect as of October 30th -- up to October 30th.

14 Q. The screens here, do they use the same  
15 codes that we saw appearing on some of these  
16 automated forms, either the AUD or the ACDVs?

17 A. Yes.

18 Q. Were there any instances in which OCWEN  
19 reporting on the account for Mr. Daugherty, that upon  
20 your review evidence that OCWEN was reporting this  
21 trade line twice at any time?

22 A. Not at all. Only one trade line was  
23 reported to each bureau. And they all get reported  
24 on a monthly data the same day each month.

25 Q. Do all the credit reporting agencies

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1 receive the same data from this packet of  
2 information?

3 A. Yes. It gets sent on what they call a  
4 monthly data report.

5 Q. Were there any instances in these  
6 monthly data reports in which OCWEN reported a  
7 compliance condition code of XB?

8 A. Yes.

9 Q. Could you identify those?

10 Let me ask you this way. Turn to  
11 page 639. You tell me if I'm reading this document  
12 correctly. It says OLS 639. There is two screen  
13 prints. And towards the bottom there is one that  
14 says compliance condition code. And then it appears  
15 to have a code next to it. Do you see that?

16 A. Yes, I do.

17 Q. And what is that code?

18 A. XB.

19 Q. And what does XB mean?

20 A. XB is that if the loan was in default,  
21 not to report it.

22 Q. I'm not going to ask you to go through  
23 everything. Is that an example of an instance in  
24 which on the monthly data tape OCWEN was reporting  
25 this account with a compliance condition code as XB?

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1           A.       Yes. It identifies what month that --  
2       which month that it was reported as an XB code.

3           Q.       It appears the last month in this  
4       packet, the monthly reporting data has reporting  
5       period for March 31st, 2015. I'm looking at Bates  
6       stamp 645. Do you see that?

7           A.       Okay.

8           Q.       So top of the page, do you see the  
9       reporting period?

10          A.       Yes.

11          Q.       What's the reporting period?

12          A.       It is up through March 31st, 2015.

13          Q.       Now, if you look towards the bottom,  
14       since this is the most recent of the monthly data, if  
15       you go to the account history, I just want to see if  
16       you can help us understand.

17          A.       Yes.

18          Q.       The account history, when it says --  
19       there is a number of digits or numerals in that  
20       bottom right-hand corner. There is a 1, a number 1,  
21       in the box from May 2012. Do you see that?

22          A.       Correct.

23          Q.       What does the number 1 reflect?

24          A.       Thirty days past due.

25          Q.       And then April has a zero. What does --

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1 again, for the record, April 2012 has a zero. What  
2 does that reflect?

3 A. Current.

4 Q. March 2012?

5 A. He was in default and was 120 days past  
6 due.

7 Q. And so when it says a 4 for March 2012,  
8 that is four times 30 days to get to the 120 you  
9 said?

10 A. That is correct.

11 Q. After that period, it appears that there  
12 are no other numbers other than zeros?

13 A. That is correct.

14 Q. So that would reflect, at least  
15 according to this monthly data reporting, he was  
16 current for each of those months?

17 A. Yes.

18 Q. Is there a compliance condition code on  
19 this report?

20 A. Yes, there is.

21 Q. What is it?

22 A. XB.

23 Q. How about the prior month, for the  
24 reporting period February 2015, is there an XB code  
25 there?

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1           A.       Yes, there is.

2           Q.       It looks like there is an XB code for  
3       the next series of pages, 641 through 645, and that's  
4       for the reporting period November 2014 through  
5       March 2015; is that accurate?

6           A.       Yes.

7           Q.       At the beginning of the deposition you  
8       were asked about background or qualifications for the  
9       credit analysts. What -- from a very broad  
10      perspective, what training do those new-hire analysts  
11      receive?

12          A.       It's a one-month training, two weeks  
13      class training, and an additional two weeks shadowing  
14      training.

15          Q.       Okay. So the first two weeks is in a  
16      classroom. What is the substance of that classroom  
17      training?

18          A.       How to operate the OCWEN system,  
19      policies and procedures for credit reporting, as well  
20      as -- as well as for credit reporting. I did say  
21      that, credit reporting. And for e-Oscar.

22          Q.       And then after the classroom, you said  
23      shadowing. What do you mean by shadowing?

24          A.       Yes. They sit down with a most current  
25      credit reporting analyst for additional training as

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1 far as how they operate.

2 Q. After the two-week classroom training,  
3 two-week shadowing, and that individual goes live in  
4 the system, is there any further training or  
5 supervision of that individual?

6 A. Yes. There is always ongoing training,  
7 whether it's online training within the company, for  
8 continuous training on policy and procedures, as well  
9 as codes and things like that.

10 Q. What about a quality control program?  
11 Is there any supervision of the actual work these  
12 people are doing when they undertake a credit dispute  
13 review?

14 A. Yes. There is a supervisor for teams  
15 that they have. I'm not sure how many number of  
16 teams are in that department that handle different  
17 functions, as well as consumer escalation, which  
18 means -- also means ombudsman escalation.

19 Q. When you say ombudsman escalation, I  
20 think we saw some of that in the notes. What is  
21 that?

22 A. They deal with the actual consuming; for  
23 instance, from the Credit Financial Protection  
24 Bureau.

25 Q. There was some testimony about an

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1 opening date. So I wanted to have you explain,  
2 what's the deal with this opening date? There was a  
3 change in the opening date. How does that work or  
4 how did that occur?

5 A. The reason for the change for the  
6 opening date, because it was reviewed, looks like,  
7 according to the notes, around the time the loan was  
8 being reinstated, and additional, I want to say,  
9 quality assurance was done, and it was noted that the  
10 account opening date was incorrect from the prior  
11 servicer based on the documents that we have in our  
12 business records, which includes the note, the  
13 mortgage.

14 Q. Would that change appear in the monthly  
15 data reporting?

16 A. It would show -- it would show the  
17 change in the monthly reporting, in that the credit  
18 reporting department uses; however, the changes  
19 cannot be made by the credit reporting department.  
20 It has to be made by the loan setup department.

21 MR. NOLAN: I'm sorry. Can you repeat  
22 that?

23 THE WITNESS: It has to be -- the  
24 accounts are not altered as far as opening dates.  
25 Anything dealing with the loan information by the

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1 credit reporting gets -- an email is sent, as well as  
2 coded in the notes to the setup department to make  
3 that change.

4 BY MR. MANNING:

5 Q. If you can look at Exhibit 26 on  
6 page 606, Bates stamped at the right-hand is 606,  
7 you'll see there is a date opened, about halfway down  
8 the page, August 26, 1999?

9 A. Yes.

10 Q. And then on the next page, 607, it says  
11 date opened July 20th, 1999?

12 A. Yes.

13 Q. So is that -- does that reflect the time  
14 period in which this opened date changed in the  
15 system as it was reported to the CRAs?

16 A. It was changed within that time  
17 between -- yes, between March 31st, 2012 and  
18 April 30th, which was then reported with the correct  
19 open date because, due to the reinstatement, the  
20 borrower reinstated the account to bring it back  
21 current.

22 Q. So in March 2012 that open date changed.  
23 What was the status of the borrower's account at that  
24 time?

25 A. It brought the -- at April 30th, 2012,

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1     because it's still reporting as of March, it would  
2     still show as delinquent; however, reporting period  
3     for May 31st, 2012 it would show the loan as current.

4             Q.       Okay. So for the record, when you say  
5     reporting period April 30th, 2012 it's being reported  
6     as delinquent, that's the number 4 for the March 2012  
7     account history box, right?

8             A.       That is correct.

9             Q.       So at that point in time when the  
10    opening date changed, the account was 120 days late?

11            A.       That is correct.

12            Q.       And then the next month Mr. Daugherty  
13    brought the account current, and OCWEN for its part  
14    on its monthly data reported him as current?

15            A.       That is correct.

16            Q.       Okay. Knowing how OCWEN is reporting it  
17    and the fact that Equifax was reporting it  
18    incorrectly, what were you able to determine as the  
19    cause of Equifax's error?

20                   MR. NOLAN: Objection. Calls for a  
21    legal conclusion.

22    BY MR. MANNING:

23            Q.       What, if anything, according to your  
24    review of the documents, were you able to determine  
25    was the cause of this inconsistency with Equifax's

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1 credit reporting?

2 A. There is no inconsistency how OCWEN was  
3 reporting. The only thing that changed was the open  
4 date on the account.

5 Q. How did the CRAs interpret that open  
6 date change?

7 MR. NOLAN: Objection. Speculation.

8 BY MR. MANNING:

9 Q. If you can tell based on your review of  
10 the documents, did the three national credit  
11 reporting agencies all interpret that opening date  
12 the same?

13 A. All except for Equifax apparently.

14 Q. And what did Equifax interpret  
15 differently?

16 A. They added a trade line.

17 Q. When you say they added a trade line,  
18 what do you mean?

19 A. Based on my review.

20 Q. Right. What do you mean by that?

21 A. They are showing two accounts under the  
22 same loan number, under Equifax, when Experian and  
23 TransUnion did not.

24 Q. Is that reporting by Equifax something  
25 that OCWEN can control?

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1           **A.       No.**

2           Q.       Did Equifax ever tell -- according to  
3 any of these documents that have been produced, did  
4 it ever tell OCWEN that it was reporting this trade  
5 line twice?

6           **A.       No.**

7           Q.       According to any of the documents that  
8 you've seen produced by the plaintiff or any other  
9 defendant, did Mr. Daugherty ever tell OCWEN that  
10 Equifax was reporting the same account twice on his  
11 credit report?

12          **A.       No. Mr. Daugherty complained that**  
13 **Equifax is reporting or did report or is reporting**  
14 **inaccurate or not reporting correctly and showing him**  
15 **as late when he is not.**

16          Q.       There were a number of documents that  
17 you were shown that were produced by Equifax. Do you  
18 recall that?

19          **A.       Yes.**

20          Q.       I'm going to see if I can just pull  
21 these together. It looks like it was Exhibit 7, 8,  
22 11, 12, 13, and 14. I've got them here. I just want  
23 to make sure I've got the numbers right. So  
24 Exhibit 7, 8, 11, 12, 13, and 14 all at the top have  
25 this Equifax Credit Information Services header with

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1 a statement Automated Consumer Dispute Verification.

2 Do you see that?

3 A. Yes.

4 Q. Okay. So you were asked a number of  
5 questions about these. Are these OCWEN's documents?

6 A. No.

7 Q. Does OCWEN have any control over these  
8 documents?

9 A. No. And I've stated that earlier.

10 Q. Does OCWEN have any input as to how  
11 Equifax creates, generates, or maintains these  
12 documents?

13 A. No.

14 Q. For example, you were asked about this  
15 box here that says verified as reported, where it's  
16 checked. It appears to be a form on each of these.  
17 Is that something that OCWEN controls?

18 A. No.

19 Q. Similarly, with these disputes, dispute  
20 1, dispute 2, just because it appears on this  
21 document does that necessarily mean it appeared in  
22 what was transmitted to OCWEN?

23 A. No. They have verified based on the  
24 comment notes. So I retract. They have based in  
25 their comment notes, as well as part of the ACDV,

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1     that the account has been verified showing that it's  
2     Mr. Daugherty's account.

3             Q.     Right. And let me -- let me clarify  
4     that. So when you say it's been verified -- let's  
5     look at one of these ACDVs. Exhibit 18 is one of  
6     them. I just want to make sure our terminology is  
7     consistent.

8                     So you say -- do you have 18 in front of  
9     you?

10            A.     18? That's the notes.

11            Q.     So here, if you look at the top of this  
12     ACDV, it's got a Bates stamp 1349 and 1350. It says  
13     dispute information. Dispute code 001, not his/hers.  
14     Provide or confirm complete ID. Do you see that?

15            A.     Yes.

16            Q.     So when this ACDV is received, this  
17     request from, in this case -- I guess it doesn't  
18     say -- from the CRA, that is what OCWEN is being  
19     asked to do, correct?

20            A.     Yes.

21            Q.     Okay. So when it says provide or  
22     confirm complete ID, that's the inquiry that OCWEN is  
23     tasked with undertaking, correct?

24            A.     Yes.

25            Q.     So from a very high level, when OCWEN

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1 receives that inquiry how does it handle that  
2 dispute?

3 A. Based on the dispute code, not his or  
4 hers, provide or confirm complete ID, so provided a  
5 complete ID confirming that this account belongs to  
6 the borrower.

7 Q. And then when you refer to the comment  
8 log, which is marked as Exhibit 5, and you said it  
9 was verified, that's what you're referring to, that  
10 it was verified as to that dispute, correct?

11 A. That is correct.

12 Q. Could you pull out Exhibit 22, please?  
13 This is that second AUD that was sent. And it's  
14 dated at the bottom July 2nd, 2014. Do you have that  
15 in front of you?

16 A. Yes.

17 Q. Okay. So on this form it says -- OCWEN  
18 is sending in an AUD. What is the effect of that  
19 when it's sent into the e-Oscar system? What happens  
20 to it?

21 A. What happens to?

22 Q. To the information on the form.

23 A. The AUD -- the universal data form?

24 Q. Yes.

25 A. It gets sent -- it gets sent to all

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1     **bureaus.**

2           Q.       So this -- the same information on this  
3 goes through e-Oscar to all of the bureaus, right?

4           A.       **Yes.**

5           Q.       So that would mean Equifax would be  
6 receiving it, as well?

7           A.       **That is correct.**

8           Q.       All right. So on this AUD it has  
9 account information. Do you see the section about  
10 account information?

11          A.       **Yes.**

12          Q.       And it lists amount past due. Do you  
13 see that?

14          A.       **Yes.**

15          Q.       What's the amount that's listed as being  
16 past due?

17          A.       **Zero.**

18          Q.       What's the account status below that  
19 listed as?

20          A.       **Eleven.**

21          Q.       Do you know what that code stands for?

22          A.       **I don't quite know. I believe it's**  
23 **current, but -- oh. Current based on the ACDV. Yes.**

24          Q.       Okay. So at this point in this AUD  
25 OCWEN is telling the CRAs again that this is a

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1 current zero dollar past due account, right?

2 A. Yes.

3 Q. And that information also appears in the  
4 account history below, right?

5 A. Yes.

6 Q. And how did you do this account history  
7 where it has these numerals again -- we looked at  
8 this earlier on the last exhibit, the monthly data  
9 tape, Exhibit 26. Is that the same account history  
10 information that's being reproduced here as from the  
11 monthly data tape?

12 A. Yes.

13 Q. In this account history on this AUD,  
14 does it identify the borrower as being late any time  
15 in the last, looks like, 24 months?

16 A. No.

17 Q. So if a CRA continued to report this  
18 account as being past due or late, it would be  
19 inconsistent with what OCWEN is saying in this AUD,  
20 right?

21 A. Yes.

22 Q. And does OCWEN have any control over  
23 what that CRA reports?

24 A. No.

25 Q. Could you turn back to Exhibit 5,

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1 please? This is the comment log. You had mentioned  
2 this -- I can't remember if I'm pronouncing it  
3 right -- Consumer Ombudsman office?

4 **A. Yes.**

5 Q. Turn to OLS 1722, please. There is a  
6 notation here from the office of the Consumer  
7 Ombudsman for OCWEN.

8 **A. Okay.**

9 Q. So on the entry for April 8th, 2014  
10 there is what appears to be a reproduction of a note  
11 from that office; is that right?

12 **A. Yes.**

13 Q. And it appears to be a response, but who  
14 is -- based on your review of these documents, who is  
15 this response directed to?

16 **A. To the Consumer Financial Protection**  
17 **Bureau.**

18 Q. Okay. And so from that entry, right  
19 below where it says Consumer Financial Protection  
20 Bureau dispute completed, could you read that --  
21 those three paragraphs, and then I'll ask you a  
22 question about it?

23 **A. The office of the Consumer Ombudsman for**  
24 **OCWEN Loan Servicing, LLC would like to take this**  
25 **opportunity to respond to your recent concern**

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1 regarding the referenced loan.

2 The Consumer Ombudsman was created to  
3 provide OCWEN customers with a resource to assist  
4 with unresolved concerns and issues. OCWEN is  
5 obligated to report the loan accurately to the credit  
6 bureaus based on the contractual due date.

7 Further, if payments are not received  
8 within the 30 days of the month, then the account  
9 would be reported as delinquent. The March -- the  
10 March 26, 2013 payment was received on April 30th,  
11 2013, which was 30 to 59 days past due; therefore,  
12 the credit reporting is valid.

13 A further review indicates that on  
14 March 21st, 2014 our office submitted a request to  
15 the four major credit reporting agencies: Equifax,  
16 TransUnion, Experian, and Innovis, to reflect the  
17 current balance on the loan in the amount of  
18 80,499.78. The confirmation number for this  
19 electronically submitted update is 69189581. OCWEN  
20 reports to Equifax, TransUnion, Experian, and  
21 Innovis. These bureaus provide information to the  
22 local credit bureaus to update and current -- and  
23 collect the credit file. Unfortunately, OCWEN is  
24 unable to control when the credit reporting agencies  
25 will update their records. In the interim you may

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